

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 16, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT JAMES BARBEE,

Defendant.

No. 2:22-CR-152-MKD

ORDER GRANTING MOTION
TO MODIFY PRETRIAL RELEASE
CONDITIONS AND MOTION
TO EXPEDITE

ECF Nos. 44, 45

Before the Court are Defendant's Motion to Modify Pretrial Release Conditions, ECF No. 44, and related Motion to Expedite, ECF No. 45. Defendant was detained following his arrest on September 30, 2022. *See* ECF Nos. 13, 14. Defendant pleaded guilty to the single count Indictment filed on October 18, 2022, charging him with escape, in violation of 18 U.S.C. §§ 751(a), 4082(a). Defendant previously moved the Court furlough him to Comprehensive Healthcare: Pathways Adult Residential Treatment. ECF No. 33 at 2. The Court granted that motion. ECF No. 36. Defendant represents that he is due to successfully complete the

1 treatment program today. ECF No. 44 at 2; *see* ECF No. 44-1. Defendant also
2 represents that he and Pathways have secured transitional housing at The Progress
3 House, in Yakima, Washington, following his discharged from the treatment
4 program. ECF No. 44 at 2; *see* ECF No. 44-1. Defendant seeks modification of
5 his pretrial release conditions so he may reside at The Progress House. The United
6 States and the United States Probation Office defer to the Court. ECF No. 44 at 2.
7 The Court has reviewed the record and is fully informed.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. Defendant's Motion to Modify Pretrial Release Conditions, **ECF No. 44**, is
10 **GRANTED.**

11 2. Defendant's Motion to Expedite, **ECF No. 45**, is **GRANTED.**

12 3. Defendant shall be released on the following conditions of release:

13 **STANDARD CONDITIONS OF RELEASE**

14 1. Defendant shall not commit any offense in violation of federal, state, or
15 local, or tribal law. Defendant shall advise the supervising Pretrial Services
16 Officer and defense counsel within one business day of any charge, arrest, or
17 contact with law enforcement. Defendant shall not work for the United States
18 government or any federal or state law enforcement agency, including tribal
19 agencies, without approval from Pretrial Services and a judicial officer. Defendant
20 shall comply with all conditions of supervision imposed by other courts.

1 2. Defendant shall reside at an address approved by Pretrial Services and
2 advise the Court, defense counsel and the U.S. Attorney in writing at least twenty-
3 four hours before making any change in address or phone number.

4 3. Defendant shall appear at all proceedings as required and shall surrender for
5 service of any sentence imposed as directed.

6 4. Defendant shall sign and complete A.O. Form 199C before being released
7 and shall reside at the address furnished.

8 5. Defendant shall not possess a firearm, destructive device, or other dangerous
9 weapon. There shall be no firearms in the home where Defendant resides.

10 6. Defendant shall report to the United States Probation Office before or
11 immediately after release and shall report as often as they direct, at such times and
12 in such manner as they direct.

13 7. Defendant shall contact defense counsel at least once a week.

14 8. Defendant is further advised, pursuant to 18 U.S.C. § 922(n), it is unlawful
15 for any person who is under indictment for a crime punishable by imprisonment for
16 a term exceeding one year, to possess, ship or transport in interstate or foreign
17 commerce any firearm or ammunition or receive any firearm or ammunition which
18 has been shipped or transported in interstate or foreign commerce.

19 9. Defendant shall refrain from the use or unlawful possession of a narcotic
20 drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed

1 by a licensed medical practitioner in conformance with Federal law. Defendant
2 may not use or possess marijuana, regardless of whether Defendant has been
3 authorized medical marijuana under state law.

4 10. Defendant shall surrender any passport and enhanced driver's license to
5 Pretrial Services and shall not apply for replacements and any travel documents
6 and/or passport for any country.

7 **SPECIAL CONDITIONS OF RELEASE**

8 11. Defendant shall remain in the Eastern District of Washington while the case
9 is pending. Defendant may be permitted to travel outside this geographical area
10 with advance notice and approval from U.S. Probation.

11 12. Defendant shall have no contact whatsoever, direct or indirect, with any
12 persons Defendant knows or reasonably should know are or may become a victim
13 or potential witness in the subject investigation or prosecution. Prohibited forms of
14 contact include, but are not limited to, telephone, mail, email, text, video, social
15 media, and/or any contact through any third person or parties. Pretrial Services
16 may but is not required to exempt specific named individuals from this prohibition,
17 including but not limited to immediate family members or co-workers.

18 13. Refrain from any use of alcohol.

19 14. **Substance Abuse and Evaluation:** Defendant shall participate in a
20 substance abuse evaluation at the discretion of Pretrial Services if such a substance

1 abuse evaluation is determined to complement any concurrent similar state-ordered
2 programs in which Defendant is currently engaged. Pretrial Services shall
3 determine the evaluators and the schedules.

4 Defendant shall complete treatment indicated by an evaluation or recommended
5 by Pretrial Services and shall comply with all rules of a treatment program.
6 Defendant shall be responsible for the cost of testing, evaluation and treatment,
7 unless the United States Probation Office should determine otherwise. The United
8 States Probation Office shall also determine the time and place of testing and
9 evaluation and the scope of treatment.

10 Prior to commencing any evaluation or treatment program, Defendant shall
11 provide waivers of confidentiality permitting the United States Probation Office
12 and the treatment provider to exchange without qualification, in any form and at
13 any time, any and all information or records related to Defendant's conditions of
14 release and supervision, and evaluation, treatment and performance in the program.
15 It shall be the responsibility of defense counsel to provide such waivers.

16 Following any evaluation or treatment ordered here, Defendant shall complete
17 any recommended aftercare program, including outpatient treatment and any
18 recommended counseling.

19 **If Defendant terminates any treatment program before it is completed, the**
20 **treatment provider and Defendant shall immediately notify the U.S. Probation**

1 **Officer.**

2 **15. Prohibited Substance Testing: If random urinalysis testing is not done**
3 **through a treatment program, random urinalysis testing shall be conducted**
4 **through Pretrial Services, and shall not exceed six (6) times per month.**

5 Defendant shall submit to any method of testing required by the Pretrial Service
6 Office for determining whether the Defendant is using a prohibited substance.

7 Such methods may be used with random frequency and include urine testing, the
8 wearing of a sweat patch, a remote alcohol testing system, and/or any form of
9 prohibited substance screening or testing.

10 16. Defendant shall refrain from obstructing or attempting to obstruct or
11 tamper, in any fashion, with the efficiency and accuracy of prohibited substance
12 testing.

13 17. Defendant shall notify United States Probation/Pretrial Services Office
14 within 24 hours of any change in address, telephone number, or employment.

15 18. Defendant shall reside at The Progress House until his sentencing hearing
16 on August 8, 2023, or until further order from the Court. Defendant shall comply
17 with all of The Progress House's rules and policies.

18 19. Defendant shall continue with intensive outpatient mental health treatment
19 at Comprehensive Healthcare.

20 20. If Defendant ceases to reside at The Progress House or it terminated from

1 outpatient treatment, The Progress House and/or the treatment facility personnel
2 shall immediately notify the United States Probation Officer, who shall in turn
3 immediately notify the Court.

4 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
5 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
6 Service.

7 **DATED** June 16, 2023.

8 *s/Mary K. Dimke*
9 MARY K. DIMKE
10 UNITED STATES DISTRICT JUDGE
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